OHIO E.P.A.
DEC 28 2007
ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Eramet Marietta Inc.
St. Route 7 South, Rand Riverview Road
Marietta, Ohio 45750-0299

Respondent

: **Director's Final Findings and Orders**

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: _____ Date: 12/28/07

PREAMBLE

The Director and Respondent agree as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Eramet Marietta Inc. ("Respondent") pursuant to the authority vested in the Director ("the Director") of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapters 3704 and the rules promulgated thereunder.

IV. FINDINGS

Nothing in these Orders shall be considered to be an admission by Respondents of any matter of law or fact. The Director of Ohio EPA makes the following findings:

1. Respondent is a Delaware corporation authorized to do business in Ohio. Respondent owns and operates a facility ("the Facility") located on State Route 7

South, Rand Riverview Road, in Marietta, Washington County, Ohio. Ohio EPA has assigned the Facility an identification number of 06-84-02-0006. At the Facility, Respondent produces ferromanganese and silicomanganese alloys and special metal products used by the steel, aluminum, super alloys, and specialty steel industries.

2. As part of its production processes, Respondent employs three electric arc furnaces. The largest of the three furnaces is a thirty-megawatt furnace in which Respondent produces silicomanganese, a low-carbon source of manganese and silicon used in many steel-making operations. This furnace is referred to as Submerged Arc Furnace #1.

3. Submerged Arc Furnace #1 is an "air contaminant source," as that term is defined in ORC §3704.01(C), and, together with its associated scrubber and baghouse, is identified as Ohio EPA emissions unit P901. Operation of emissions unit P901 is governed by a Title V permit, effective as amended December 31, 2002 ("the Permit"). Respondent is the holder of the Permit and is the permittee.

4. ORC § 3704.05(C) provides that no person who is the holder of a permit issued under division (F) of ORC § 3704.03 shall violate any of the permit's terms or conditions.

5. As one of the terms and conditions of the Permit, in Part III.A.I.1, Respondent shall not cause to be discharged into the atmosphere any exhaust gases (including primary and tapping) containing particulate emissions in excess of 35.9 lbs/hr when producing silicomanganese with a furnace load greater than 25 megawatts or in excess of 27.2 lbs/hr when producing silicomanganese with a furnace load less than or equal to 25 megawatts.

6. On November 8, 2006, Environmental Quality Management performed a particulate emissions compliance test for emissions unit P901. The results of this emissions test, received by the Ohio EPA on December 11, 2006, showed that the particulate emissions from emissions unit P901 were 35.06 lbs/hr when producing silicomanganese with a furnace load of 24.18 megawatts. Thus, in violation of Part III.A.I.1 of the Permit, Respondent discharged into the atmosphere from emissions unit P901 exhaust gases containing particulate emissions in excess of 27.2 lbs/hr when producing silicomanganese with a furnace load less than or equal to 25 megawatts. The Ohio EPA notified Respondent of this violation in a notice of violation dated April 5, 2007.

7. Respondent informed Ohio EPA that they believed emissions from emissions unit P901 exceeded the particulate emissions limitation because water leaks from

furnace components known as pressure rings had temporarily caused the furnace to operate erratically and inefficiently and that such components were replaced on November 13, 2006.

8. On May 9 and 10, 2007, Environmental Quality Management again performed a particulate emissions compliance test for emissions unit P901. The results of this emissions test showed that emissions unit P901 was in compliance with the particulate emission limitations of Part III.A.I.1 of the Permit at furnace loads both above and below 25 megawatts.

9. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 3704.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay Thirty-Seven Thousand Fifty Dollars ($37,050.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704 for the above-mentioned emission violation. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for Twenty-Nine Thousand Six Hundred Forty Dollars ($29,640.00) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent to:

   Ohio Environmental Protection Agency
   Office of Fiscal Administration
   Lazarus Government Center
   50 West Town Street, Suite 700
   P.O. Box 1049
   Columbus, Ohio 43216-1049

2. In lieu of paying the remaining Seven Thousand Four Hundred Ten Dollars ($7,410.00) of the civil penalty, Respondent shall within thirty (30) days after the effective date of these Orders fund a Supplemental Environmental Project (SEP) by making a contribution of Seven Thousand Four Hundred Ten Dollars

($7,410.00) to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for Seven Thousand Four Hundred Ten Dollars ($7,410.00). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent, to:

Ohio Environmental Protection Agency
Office of Fiscal Administration
Lazarus Government Center
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

3. A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at:

Ohio Environmental Protection Agency
Lazarus Government Center
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order 3, Respondent shall immediately pay to Ohio EPA Seven Thousand Four Hundred Ten Dollars ($7,410.00) in accordance with the procedures in Order 2.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V. of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation not a party to these Orders for any liability arising from, or related to, the operation of Respondent's Facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Lazarus Government Center
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: James Orlemann, SIP Development and Enforcement

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, defenses, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically alleged in these Orders, Respondent consents to the issuance of these Orders and

agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for only the violations specifically alleged herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Chris Korleski

Director

12/27/07

Date

IT IS SO AGREED:

Eramet Marietta Inc.

Frank Bjorklund
Signature

12/20/07
Date

Frank Bjorklund
Printed or Typed Name

Chief Executive Officer
Title